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September 30, 2015

To: Each Supervisor

From: Patrick Ogawa
Acting Executive Officer

Mary C. Wickham
Interim County Counsel

Lisa M. Garrett
Director of Personnel

Subject: **REPORT ON APPOINTMENT OF COUNTY OFFICERS AND DEPARTMENT HEADS WHO REPORT TO THE BOARD OF SUPERVISORS**

This report addresses the motions of the Board of Supervisors, dated December 2 and December 9, 2014, concerning the recruitment and selection process for non-elected county officers and department heads that are direct reports to the Board. It also provides guidance on the appointment of interim/acting[1] unclassified executives for which the Board serves as the appointing authority.

Appointing Authority

Pursuant to the County Charter, County Code, and the current County Governance Structure, the Board is the appointing authority for all non-elected county officers and department heads. Generally, the recruitment of department heads, who are in the unclassified/at-will service, follows the process outlined in County Code, Section 2.06.010 et seq. The provisions outline the process for defining the scope of duties and qualifications of the position, the performance expectations of the person filling the position, the development and implementation of the recruitment plan, and the evaluation of candidates. However, these provisions also provide the Board with discretion to waive any portion of this process.

The County has an interest in promoting the values of merit, opportunity and diversity by ensuring that all potential candidates for executive-level jobs have the opportunity to compete. Generally, recruitments for department heads are open, widely publicized, and intended to draw the best, brightest and most diverse candidates.

The recruitment and selection of unclassified/at-will positions is not governed by Civil Service Rules or existing Department of Human Resources Policies, Procedures and Guidelines, which apply only to positions in the classified service.

[1] Generally, the terms "interim" and "acting" can be used interchangeably. These guidelines apply to both terms.

Interim/Acting Appointments

An executive interim/acting appointment is the hiring or assignment of an experienced internal or external executive who serves temporarily in an executive-level or unclassified position. The individual appointed to the temporary interim/acting assignment typically has the skills, knowledge and abilities to be considered for appointment to the underlying position.

Appointing candidates to an interim/acting assignment, who are interested in the permanent position, has the following advantages:

- Allows for appointment of a candidate with proven performance effectiveness in the position
- Maintains institutional knowledge and stability, particularly during times of organizational transition
- Promotes leadership development and succession planning efforts by providing the interim/acting executive with a full-spectrum stretch assignment
- Is cost effective, alleviating the need to engage in a recruitment to find a quality candidate when one is already in the role

Potential disadvantages to the appointment of an interim/acting executive include:

- Deterrence of other candidates from participating in the recruitment process in the presence of an internal candidate
- Reluctance of the interim/acting executive to make difficult or unpopular decisions to avoid jeopardizing a permanent appointment
- Leverage of the interim/acting executive's experience during a competitive recruitment

Conclusion

Pursuant to the County Code, the Board has wide discretion in appointing non-elected county officers and department heads, including those serving in interim/acting positions. According to our research, including consultation with Dr. Susan Stang of PSI, there is no consistent approach among private or public agencies for handling executive-level interim/acting appointments. However, our County Code and existing practices provide valuable guidance for making such appointments.

Many private sector executives would agree that the organization should leave its options open when determining whether an interim/acting executive can be appointed to the permanent position. It is in the organization's best interest to be flexible in its temporary appointments if the organization believes the interim/acting executive is the best qualified candidate for the permanent position.

As stated above, the County Code provides the Board with a flexible framework for the appointment of interim/acting executives into permanent positions. Executive positions should be filled according to the guidelines and procedures established in the County Charter, the County Code, and applicable human resources practices. When filling executive vacancies, a selection process should be applied when practicable. We find that it is appropriate to consider the interim/acting executive's performance in the position when making the final selection or appointment.

The recruitment and selection process for county officers and department heads generally provides for the public announcement of the department head vacancies, the development of written job descriptions and required qualifications, and a candidate vetting process to assist the Board in identifying and selecting the most qualified candidates. This could include the observation of the interim/acting executive's performance in the position. The above are generally recognized as best practices for identifying and selecting the most qualified candidates for executive-level appointments. Notwithstanding the above, the County Code provides the Board with the authority to waive any portion of this process when deemed appropriate, based on the needs of the service and the benefit of the County.

It is strongly recommended that the Board be governed by the language which currently exists in the County Charter and County Code for appointing county officers and department heads. These County provisions would supersede Board policy. In the absence of additional direction, we will continue to operate within the parameters of the applicable County provisions in connection with the recruitment and selection process for county officers and department heads.

PO/MCW/LMG

c: Board Chief Deputies
Interim Chief Executive Officer